SUPREME COURT NO. 98730-1

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Appeal from the Court of Appeals, Division III
of the State of Washington
Cause No. 364399

SEVEN HILLS, LLC, a Washington limited liability company; and WATER WORKS PROPERTIES, LLC, a Washington limited liability company;

Petitioners,

v.

CHELAN COUNTY, a municipal corporation.

Respondent.

PETITION FOR REVIEW

Taudd A. Hume, WSBA No. 33529
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1. IDENTITY OF PETITIONERS

Seven Hills, LLC, a Washington limited liability company and Water Works Properties, LLC, a Washington limited liability company, hereby petition for review of the Court of Appeals decision identified in Section 2.

2. CITATION TO COURT OF APPEALS DECISION

Petitioners seek review of the unpublished opinion issued on April 23, 2020 by the Court of Appeals for Division III, which is attached as **Exhibit A** hereto. The Court of Appeals denied Petitioners' Motion for Reconsideration on June 4, 2020, which is attached as **Exhibit B** hereto.

3. ISSUES PRESENTED FOR REVIEW

1. Did Petitioners establish nonconforming rights through their activities on the Property prior to the enactment of Resolution 2016-14?
2. Did the enactment of a moratorium act to extinguish the creation of Petitioners non-conforming rights?
3. May Resolution 2016-14 be applied retroactively to extinguish Petitioners' established vested rights?

4. STATEMENT OF THE CASE

Each County in Washington had a different response to the passage of I-502 (legalization of cannabis) in 2013. By early 2014, Chelan County determined that production and processing of cannabis would be regulated as any other form of agriculture, controlled exclusively though the State's

licensing requirements (*e.g.* WAC 314-*55 et seq.*), and permitted outright on land zoned for agricultural uses, which included the Rural Industrial Zone. No Conditional Use Permit would be required to cite a growing/processing operation in the Rural Industrial Zone.

Throughout 2014 and 2015 Seven Hills worked to develop property located in the Rural Industrial Zone to satisfy the state requirements for a Tier II cannabis license. CP 020-671; *Decl. of Roy Arms.*

On September 29, 2015, the County adopted an emergency moratorium temporarily prohibiting the siting of new I-502 businesses in the County (Resolution 2015-94). CP 445-446. This Resolution left existing operations unaffected, did not enact any new regulations, and did not terminate any existing regulations. By September 29, 2015 Seven Hills spent approximately $765,751.35 on costs, investments and site improvements on the property. CP 609.

Throughout 2015 and into early 2016 Seven Hills continued to develop the Property and work toward fulfilling all of the various state requirements. CP 609. Based upon prior conversations with the County, Seven Hills believed that it did not need any other permits from the County. CP 609. On January 26, 2016 Seven Hills received its Tier II license from the Washington State Liquor Control Board (License No.

4116935). CP 496, 609.

On February 9, 2016, Chelan County adopted Resolution 2016-14, which terminated all I-502 related businesses in Chelan County using a single, uniform two-year termination date, and which purported to retroactively apply back to September 29, 2015 (the date of the moratorium). By February 9, 2016 Seven Hills had spent approximately $1,232,390.84 on costs, investments and site improvements in pursuit of receiving its state license. CP 609.

Petitioners have always contended that this use of their property and the receipt of their Tier II license *prior to* Chelan County's change in regulations on February 9, 2016, allowed Seven Hills to establish their nonconforming rights.

On or about March 24, 2017 Petitioners received a "Notice and Order to Abate Zoning and Building Code Violations" (the "Notice and Order"), dated March 24, 2017, and issued by Chelan County. Specifically, the Notice and Order contained four complaints against Petitioners: (1) production and processing of marijuana in contravention of Resolution 2016-14, (2) construction and operation of unpermitted structures, (3) operation of unpermitted propane tanks, and (4) public nuisance for violating the foregoing. CP 609.

On July 19, 2017, a public hearing was held before the Chelan

County Hearing Examiner, who, through a decision dated August 2, 2017, denied Petitioners' appeal and affirmed each violation raised in the County's March 24, 2017 Notice and Order.

Petitioners appealed the Hearing Examiner's decision to the Chelan County Superior Court, who on October 18, 2018 entered an order denying Appellant's LUPA appeal.

On November 16, 2018 Petitioners appealed the Superior Court's decision to Division III of the Court of Appeals, who denied Petitioners' appeal on April 23, 2020. The Court subsequently denied Petitioners' Request for Reconsideration on June 4, 2020.

5. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

"The right to continue a nonconforming use despite a zoning ordinance which prohibits such a use in the area is sometimes referred to as a 'protected' or 'vested' right." *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d 1, 6, 959 P.2d 1024 (1998). "A nonconforming use is a use which lawfully existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated." *Id.*; *see also* Chelan County Code 14.98.1300. "The landowner bears the burden of establishing

that a valid nonconforming use exists." *McMilian v. King County*, 161 Wn. App. 581, 591 (2011). Washington law allows preexisting legal nonconforming uses to continue in spite of a subsequent contrary zoning ordinance. *Jefferson County v. Lakeside Industries*, 106 Wn.App. 380, 385 (2001).

"Nonconforming uses" are defined in Chelan County's code as a use "which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the current requirement of the zoning district." CCC 14.98.1300. The Court of Appeals appears to interpret the "change in regulation" that triggered the nonconformity of Petitioners' use as the moratorium itself, and expresses concern that Petitioners did not have a valid license from the WSLCB by that point in time:

> [w]e do not believe that anyone could have a valid right to produce marijuana prior to the time the WSLCB authorized the activity. Here, Seven Hills did not obtain a valid license to produce marijuana until January 26, 2016. Since the county's temporary moratorium was in place at that time, there could be no valid nonconforming use at that time. Seven Hills' argument fails under the statute.

Court of Appeals Decision, at page 7.

> Seven Hills has failed to demonstrate that it was lawfully operating a marijuana production facility before the county enacted its original moratorium. The evidence supported each of the four violations.

Court of Appeals Decision, at page 8.

But the moratorium (Resolution 2015-94), which the County adopted on September 29, 2015, did not amend, alter or change the County's existing zoning regulations to render Petitioners' use of their property as nonconforming. Rather, it was the subsequent passage of Resolution 2016-14 on February 9, 2016 that actually terminated cannabis as a use in the Rural Industrial Zone, thus rendering Petitioners use of the property as nonconforming. In short, Petitioners had until February 9, 2016 to establish use of the property sufficient to justify its nonconforming rights.

And by February 9, 2016 Petitioners had spent approximately $1,232,390.84 on costs, investments and site improvements in pursuit of receiving its state license, had received a Tier II cannabis license from the WSLCB on January 26, 2016, and had actually produced and processed cannabis on the property.[1] CR 581. So, Seven Hills did in fact receive its license before the change in regulation rendering the use of the property as nonconforming. Seven Hills was fully licensed and fully operational prior to the adoption of Resolution 2016-14. Therefore, under Washington nonconforming use law, these facts are enough to shift the burden to the County to demonstrate that Seven Hills abandoned or discontinued the use

[1] Between January 26, 2016 and February 9, 2016, under full license from the State, Seven Hills produced and processed cannabis on the Property. CR 581.

after the ordinance's enactment. *See e.g. Van Sant v. City of Everett*, 69 Wash.App. 641, 648 (1993).

Additionally, it is important to understand that the County's moratorium did not effect Petitioners' development of the property or apply to its operations. Importantly, Resolution 2015-94 placed a six month temporary moratorium "on the siting of licensed recreational marijuana retail stores, production, and processing . . ." Cultivation and processing of cannabis were still treated as agricultural activities under the County's existing code, only the siting of new businesses was prohibited. This language did not affect the licensing relationship between the WSLCB and Appellant, nor did it keep Petitioners from continuing to work on other permitting unrelated to the County (e.g. electrical permits under the jurisdiction of the department of labor and industry, septic permits under the jurisdiction of the health department etc.).

Nor can Resolution 2016-14 be retroactively applied to extinguish Petitioners nonconforming rights. Resolution 2016-14 states:

> Uses herein declared permanently prohibited that were lawfully established and in actual physical operation prior to September 29, 2015, are nonconforming and must cease, abate, and terminate no later than March 1, 2018.

The retroactive nature of this resolution is inapplicable as applied to, or unenforceable upon, Seven Hills. Statutes are generally presumed to

apply prospectively only. *Macumber v. Shafer*, 96 Wash.2d 568, 570 (1981). But, if a statute is remedial, its effects may be retroactively applied, *Macumber*, at 570, unless the statute affects a vested right, *Johnston v. Beneficial Management Corp.*, 85 Wash.2d 637, 641 (1975), or existing right, *Gillis v. King Cy.*, 42 Wash.2d 373, 378 (1953). In fact, a statute may not be given retroactive effect, regardless of the intention of the legislature, where the effect would be to interfere with vested rights. *Gillis, 42 Wn.2d at* 376. Further, a statute written in present and future tenses manifests a legislative intent that it apply prospectively only. *Miebach v. Colasurdo*, 35 Wash. App. 803, 812 (1983) (citing *Johnston*, 85 Wash.2d at 641–42).

For example, consider this common scenario - imagine a local jurisdiction just announced that it is going to amend its Shoreline Master Program to increase the size of the buffers along the shoreline from 50 to 150 feet. Some landowners would undoubtedly rush to establish vested rights under the existing, less stringent, buffer regulations by filing applications for building permits or plat applications. The local jurisdiction would not then be able to execute a resolution imposing the new changes to the shoreline buffer requirements while simultaneously retroactively applying the application of the ordinance back three months to a time before the landowners had established their vested rights.

Similarly, under Washington law Resolution 2016-14 cannot be applied retroactively to eliminate or impinge the nonconforming rights of Seven Hills that were previously established. Again, legal nonconforming uses are vested legal rights. *Skamania County v. Woodall,* 104 Wash.App. 525, 539 (2001).

Understanding these nuances and distinctions are important to maintaining the land use jurisprudence of this state. Neither the courts nor the legislature have created any bright line legal rules regarding the "amount" of use sufficient to establish nonconforming rights. Thus far, courts have decided each case according to their own facts. For example, in *Anderson vs. Island County,* 81 Wn.2d 312, 321 (1972) the Court found a nonconforming use did not exist because the claimed use did not actually exist on the parcel prior the zoning change. In *First Pioneer Trading Co., Inc. v. Pierce County,* 146 Wn.App. 606, 614 (2008) the Court found no evidence - comparing postal records, arterial photographs and testimony from the neighbors - to support the owner's contention that the claimed use had taken place on the property at all, holding that the overall lack of evidence in the record was sufficient to uphold the Hearing Examiner's decision.

The Court of Appeals Decision creates two potential problems. First, it potentially confuses existing jurisprudence by conflating the

concept of a moratorium, which does not actually change land use regulations, with a subsequent ordinance amendment that does terminate or change land use regulations sufficient to trigger the creation of a use as "nonconforming." Again, a "nonconforming use" is a use "which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the current requirement of the zoning district." CCC 14.98.1300. In order for a use to become nonconforming, the regulation must be legislatively changed to create a contrary zoning ordinance. A moratorium is not that change.

Second, this Court's Decision moves further towards the creation of a bright line rule vis-à-vis the requirement that a landowner have all permits in place as a pre-requisite to the creation of nonconforming rights. It is important to note that Division I previously recognized that "[c]ourts have repeatedly found that licensing and other regulations *unrelated* to land use approval, whether business licensing, business and occupation tax regulations, or building permits, are not per se determinative of the continuance of a non-conforming use." *Van Sant vs. City of Everett*, 69 Wash. App. 641, 651–52 (1993). In Washington's nonconforming use jurisprudence the focus appears to be on the landowner's use of the their property. Here, since the use is allowed outright in the zone, spending

$1.2M towards costs and site improvements in pursuit of that use should be sufficient evidence of the existence and establishment of the use irrespective of licensing issues.

Despite the fact that the Court of Appeals decision is unpublished, under GR 14.1 an unpublished decision may nonetheless "be accorded such persuasive value as the court deems appropriate." As such, Petitioners believe that the precedential value of this decision has the potential to confuse existing Washington jurisprudence because it is in conflict with existing case law from the Court of Appeals and the Washington State Supreme Court, particularly as that decision relates to the effect of a moratorium on the establishment of non-conforming rights.

6. CONCLUSION

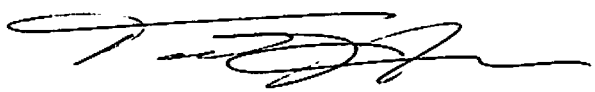
For the reasons stated above, Petitioners Seven Hills, LLC and Water Works Properties, LLC respectfully request that this Court grant review under RAP 13.4 of the Court of Appeals decision to uphold the Chelan County Hearing Examiner's decision regarding Petitioners' Notice and Order.

The Court should reverse Division III's opinion and the trial court's decision upholding the decision of the Chelan County Hearing Examiner as to whether Petitioners had generated the non-conforming

rights to continue to use the property for the production of cannabis.

RESPECTFULLY SUBMITTED this 6th day of July, 2020.

PARSONS | BURNETT | BJORDAHL | HUME, LLP



Taudd A. Hume, WSBA No. 33529
Attorneys for Seven Hills, LLC and
Water Works Properties, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2020, under penalty of perjury under the laws of the state of Washington, I caused the attached Petition for Review to be served via the Court of Appeals electronic filing system, which included the following:

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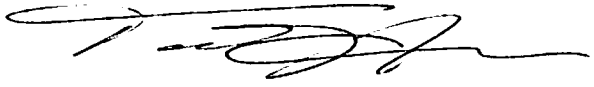
EXECUTED on this 6th day of July, 2020 at Spokane, WA.



TAUDD HUME

EXHIBIT A

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April 23, 2020

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CASE # 364399
Seven Hills, LLC, et al v. Chelan County
CHELAN COUNTY SUPERIOR COURT No. 172006984

Dear Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file the motion electronically through the court's e-filing portal or if in paper format, only the original motion need be filed. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley

Renee S. Townsley
Clerk/Administrator

RST:ko
Attach.
c: **E-mail** Hon. Lesley Allan

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

SEVEN HILLS, LLC, a Washington limited liability company; and WATER WORKS PROPERTIES, LL, a Washington limited liability company,	)	No. 36439-9-III
Appellants,	)	UNPUBLISHED OPINION
v.	)	
CHELAN COUNTY, a municipal corporation,	)	
Respondent.	)	

KORSMO, J. — Seven Hills LLC appeals from a citation issued for operating without appropriate permits and manufacturing marijuana in violation of respondent Chelan County's ban on cannabis production. Concluding that Seven Hills[1] did not establish it had a valid non-conforming use, we affirm.

FACTS

Voters in this state approved Initiative 502 in late 2012, effectively decriminalizing many aspects of marijuana production and use. Chelan County imposed

[1] Another appellant is Water Works Properties LLC, the owner of the land that Seven Hills uses. We collectively refer to both appellants as Seven Hills.

a temporary moratorium on the siting of marijuana facilities in late September 2015, and permanently prohibited marijuana production and processing in unincorporated Chelan County on February 9, 2016.

After checking with county officials in late 2014 that there were no existing county marijuana-related restrictions, Seven Hills began preparing to develop marijuana production and processing facilities on land owned by Water Works Properties near Malaga. It also sought a license from the Washington State Liquor and Cannabis Board (WSLCB).[2] During 2015, Seven Hills made application with the county for various projects related to the land it was developing, including inquiries about requirements for steel greenhouses and soft-sided temporary greenhouse structures, fencing around the property, and installation of propane tanks to heat the greenhouses. The parties dispute whether Chelan County was ever advised of the nature of the agricultural development Seven Hills was pursuing.[3] WSLCB issued a license to Seven Hills to produce and process marijuana on January 26, 2016, two weeks before Chelan's permanent ban, and nearly four months after the temporary moratorium.

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[2] The former Washington State Liquor Control Board changed its name in July 2015. We refer to it by its current name throughout this opinion for convenience.

[3] For instance, Seven Hills alleged in a declaration that the WSLCB notified Chelan in February 2015, that Seven Hills had made an application to produce marijuana in the county. Chelan denied ever receiving word from WSLCB.

Among its development projects, Seven Hills received a permit in May 2015, to build an eight foot fence around the property. It also built soft-sided temporary greenhouses heated by propane. The county authorized the installation of five propane tanks on November 30, 2015, subject to final approval after installation was completed. Seven Hills never sought final approval.

A code enforcement officer visited the property in July 2016, and observed seven grow structures in operation. The Chelan County Department of Community Development issued Seven Hills a notice of four violations on September 9, 2016:

1) Production and/or Processing of Marijuana or Cannabis in Violation of Chelan County Resolution 2016-014.
2) Unpermitted Buildings in Violation of IBC [International Building Code] [2012] section 105.
3) Operation of a Propane Tank in Violation of Building Permit No. 150687 and the International Fire Code (IFC) [2012] [A]105.3.3.
4) Maintaining a Nuisance in Violation of CCC [Chelan County Code] 16.02.030.

Clerk's Papers (CP) at 56-58. The unpermitted buildings violation involved seven 30 foot by 80 foot temporary greenhouse structures, while the propane violation involved the failure to get final approval to operate the propane tanks.

Chelan County ordered Seven Hills on March 24, 2017, to cease marijuana production and processing, and remove all plants, growing structures, and propane tanks from the premises. The county hearing examiner affirmed the order, as did the superior court.

Seven Hills timely appealed to this court. A panel heard oral argument of the case.

ANALYSIS

Although the appeal raises challenges to the administrative process involved, the primary issue concerns whether Seven Hills had a vested right to produce marijuana because it was already operating legally before the moratorium. After briefly noting the procedural challenges, we turn to the vested nonconforming use argument.

Administrative Hearings

Seven Hills questions the assignment of the burden of proof as well as the adequacy of the hearing examiner's legal conclusions, claiming that they lack citation support. Neither of these concerns need be addressed in detail.

The Chelan County Code assigns the burden of proof to the person appealing a notice of violation to the county hearing examiner. Chelan County Code 14.12.010(2)(c).[4] Seven Hills contends that due process of law requires that the county, not it, bear the burden of proof. While that argument is interesting in the abstract, it is of no moment here. Seven Hills assigns no error to any finding of fact, nor does it suggest that the burden of proof mattered in this case. Indeed, the sole substantive issue in this case—whether Seven Hills began marijuana production before the county law changed to

[4] The final sentence of this provision reads: "The appellant shall have the burden of proving the decision is erroneous."

prevent it—was one on which it bore the burden of proof. Whether the county needed to do more to establish the violations of the code is a side issue that is not determinative on any significant issue.

Even less discussion is necessary concerning the hearing examiner's citation usage. When "a determination is made by a process of legal reasoning from, or interpretation of the legal significance of, the evidentiary facts," we label it a conclusion of law. *Goodeill v. Madison Real Estate*, 191 Wn. App. 88, 99, 362 P.3d 302 (2015) (*quoting Moulden & Sons, Inc. v. Osaka Landscaping & Nursery, Inc.*, 21 Wn. App. 194, 197 n.5, 584 P.2d 968 (1978)). We review conclusions of law de novo. *Robel v. Roundup Corp.*, 148 Wn.2d 35, 42, 59 P.3d 611 (2002).

We know of no authority requiring conclusions of law to bear legal citations, although the hearing examiner did cite to the relevant county code provisions in his ruling. More importantly, any legal citations are largely irrelevant to our review. The appellate court determines whether a conclusion of law is appropriate. While the hearing examiner's conclusions of law are informative, they are not binding on this body nor carry any legal significance to our decision. The form in which they were set forth by the hearing examiner certainly had no bearing on our review of this case.

The two noted challenges are without merit.

Nonconforming Use

The one substantive issue is whether or not Seven Hills had established it was operating its production business as a nonconforming use prior to the moratorium.[5] We agree it did not.

"The right to continue a nonconforming use despite a zoning ordinance which prohibits such a use in the area is sometimes referred to as a 'protected' or 'vested' right." *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d 1, 6, 959 P.2d 1024 (1998). "A nonconforming use is a use which lawfully existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated." *Id.*; *see also* Chelan County Code 14.98.1300. "The landowner bears the burden of establishing that a valid nonconforming use exists." *McMilian v. King County*, 161 Wn. App. 581, 591, 255 P.3d 739 (2011).

Marijuana production still is largely illegal except when manufactured in compliance with the strictures of the WSLCB and our statutes. RCW 69.50.325-69.50.395. As relevant to this action, the marijuana production statute provides that it is

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[5] In its reply brief, Seven Hills attempted to raise an estoppel argument against the county. We do not consider issues raised for the first time in a reply brief. *Sacco v. Sacco*, 114 Wn.2d 1, 5, 784 P.2d 1266 (1990); RAP 10.3(c). We also note that estoppel arguments raised against the government are not favored. *Kramarevcky v. Dep't of Soc. & Health Servs.*, 122 Wn.2d 738, 743, 863 P.2d 535 (1993).

not a crime or civil offense for "a validly licensed marijuana producer" to produce marijuana within the amounts authorized by the WSLCB. RCW 69.50.366(1). No licensee may "exercise any of the privileges of a marijuana license until" approved by the WSLCB. WAC 314-55-015(4). In light of this statutory scheme, we do not believe that anyone could have a valid right to produce marijuana prior to the time the WSLCB authorized the activity. Here, Seven Hills did not obtain a valid license to produce marijuana until January 26, 2016. Since the county's temporary moratorium was in place at that time, there could be no valid nonconforming use at that time. Seven Hills' argument fails under the statute.

Moreover, even if it could prepare to grow marijuana without a license from the WSLCB, Seven Hills did not establish a nonconforming use from its site preparation actions. It relies on its fence-building and the construction of the temporary greenhouses as evidence that it had begun production.[6] It also points to the permit for, and installation of, the propane tanks needed to heat the greenhouses. This latter claim fails because Seven Hills never obtained the final inspection necessary to obtain the permit to lawfully operate the tanks. Unlawfully operating a greenhouse without the necessary permits to do so simply does not establish a lawful use.

[6] There is no evidence that any marijuana plants were produced on the location prior to the issuance of the state license.

The former claims fail, too. Erecting a fence does not establish one is producing marijuana. Constructing a temporary greenhouse likewise does not establish lawful production of marijuana. On this topic, the State Building Council has already weighed in. The Council adopts and maintains the State Building Code. RCW 19.27.074(1)(a). It also has authority to issue opinions relating to the Building Code. RCW 19.27.031 (final clause); WAC 51-04-060. Temporary growing structures are not operated year round and do not include structures used to grow marijuana:

> The [temporary growing structure] exception applies only to temporary structures, with a flexible temporary covering used for passive retention of heat and protection of plants from frost. For structures used year round and provided with other services and structural elements other than those addressed in WAC 51-50-007, this exception would not apply. In addition, RCW 82.04.213 states that marijuana is not considered an agricultural product which would not classify it as an ornamental plant, flower, vegetable, or fruit.

State Building Code Interpretation 15-04.

Thus, the construction of the temporary greenhouses by Seven Hills could not constitute lawful production of marijuana and did not establish a nonconforming use of the property. Seven Hills has failed to demonstrate that it was lawfully operating a marijuana production facility before the county enacted its original moratorium. The evidence supported each of the four violations.

The preparation to farm a location is not the same act as growing a crop. Seven Hills could not use, and actually was not using, its location to produce marijuana prior to

the initial moratorium. Accordingly, the hearing examiner and the superior court did not err in upholding the notices of violation.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, J.

WE CONCUR:

Pennell, C.J.

Siddoway, J.

EXHIBIT B

Renee S. Townsley
Clerk/Administrator

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June 4, 2020

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CASE # 364399
Seven Hills, LLC, et al v. Chelan County
CHELAN COUNTY SUPERIOR COURT No. 172006984

Dear Counsel:

Enclosed is a copy of the Order Denying Motion for Reconsideration.

A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review, an original and a copy (unless filed electronically) of the Petition for Review in this Court within 30 days after the Order Denying Motion for Reconsideration is filed (may be filed by electronic facsimile transmission). RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:ko
Attachment

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

SEVEN HILLS, LLC, a Washington limited liability company; and WATER WORKS PROPERTIES, LL, a Washington limited liability company, Appellants, v. CHELAN COUNTY, a municipal corporation, Respondent.	)	No. 36439-9-III ORDER DENYING MOTION FOR RECONSIDERATION

THE COURT has considered appellant's motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED, the motion for reconsideration of this court's decision of April 23, 2020 is hereby denied.

PANEL: Korsmo, Siddoway, Pennell

FOR THE COURT:

REBECCA PENNELL
Chief Judge

PARSONS BURNETT BJORDAHL HUME

July 06, 2020 - 4:51 PM

Transmittal Information

Filed with Court:	Court of Appeals Division III
Appellate Court Case Number:	36439-9
Appellate Court Case Title:	Seven Hills, LLC, et al v. Chelan County
Superior Court Case Number:	17-2-00698-4

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  Petition for Review
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